

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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The STATE OF NEW YORK, ALEXANDER B.	:
GRANNIS, as Commissioner of the New York State	:
Department of Environmental Conservation, and the	:
NEW YORK STATE DEPARTMENT OF	:
ENVIRONMENTAL CONSERVATION,	:
	:
Plaintiffs,	:
	:
UNITED BOATMEN OF NEW YORK, INC., NEW	:
YORK FISHING TACKLE TRADE ASSOCIATION,	:
INC., and THE FISHERMEN'S CONSERVATION	:
ASSOCIATION,	:
	:
Intervenor-Plaintiffs	:
	:
-against-	:
	:
GARY LOCKE, in his official capacity as Secretary of	:
the United State Department of Commerce, the UNITED	:
STATES DEPARTMENT OF COMMERCE, JANE	:
LUBCHENCO, in her Official Capacity as Under	:
Secretary of Commerce and Administrator for the	:
National Oceanic and Atmospheric Administration, the	:
NATIONAL OCEANIC AND ATMOSPHERIC	:
ADMINISTRATION, JAMES W. BALSIGER, in his	:
Official Capacity as the Acting Assistant Administrator	:
for the NATIONAL MARINE FISHERIES SERVICE,	:
and the NATIONAL MARINE FISHERIES SERVICE,	:
	:
Defendants,	:
	:
ATLANTIC STATES MARINE FISHERIES	:
COMMISSION,	:
	:
Intervenor-Defendant.	:
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**PLAINTIFFS' NOTICE OF MOTION FOR SUMMARY JUDGMENT AGAINST THE
FEDERAL DEFENDANTS**

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law, plaintiffs' Local Rule 56.1 statement of undisputed material facts, the administrative records filed in this action, and the management measures issued by the Federal Defendants for the federal

recreational summer flounder fishery in 2009, plaintiffs State of New York, Alexander B. Grannis, as Commissioner of the New York State Department of Environmental Conservation, and New York State Department of Environmental Conservation will move this Court before the Honorable Charles P. Sifton, United States District Judge, in Courtroom 6A of the United States Courthouse for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201, at a date and time to be determined by the Court, for summary judgment against defendants Gary Locke, as Secretary of the United State Department of Commerce, the United States Department of Commerce, Jane Lubchenco, as under Secretary of Commerce and Administrator for the National Oceanic and Atmospheric Administration, the National Oceanic and Atmospheric Administration, James W. Balsiger, in His Official Capacity as the Acting Assistant Administrator for the National Marine Fisheries Service, and the National Marine Fisheries Service on claims 1-3 of their amended complaint, Court Dkt. 3. The grounds for granting this motion are set forth in the accompanying memorandum of law.

Dated: New York, New York
June 12, 2009

Respectfully submitted,

ANDREW M. CUOMO
Attorney General of the State of New York

By: /s/ Andrew J. Gershon
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